

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF PROSECUTION SUPPORT OPERATIONS
JUSTICE SYSTEM INTEGRITY DIVISION

GEORGE GASCÓN • District Attorney
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November 22, 2022

Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: Non-Fatal Officer Involved Shooting of Samuel Nelson
J.S.I.D. File #20-0367
L.A.S.D. File # L.A.S.D. File #020-00088-3199-058

Dear :

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 23, 2020, non-fatal shooting of Samuel Nelson by a member of the Los Angeles County Sheriff's Department. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

GEORGE GASCÓN
District Attorney

ALAN YOCHELSON
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy Raymond Chavez, #

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MEMORANDUM

TO: [redacted]
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Non-Fatal Officer Involved Shooting of Samuel Nelson
J.S.I.D. File #20-0367
L.A.S.D. File #020-00088-3199-058

DATE: November 22, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 23, 2020, non-fatal shooting of Samuel Nelson by Los Angeles County Sheriff's Department (LASD) Deputy Raymond Chavez. It is our conclusion there is insufficient evidence to prove beyond a reasonable doubt that Deputy Chavez was not acting in lawful self-defense.[1]

The District Attorney's Command Center was notified of the shooting at 7:25 p.m. on September 23, 2020. The District Attorney Response Team responded to the location and was given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, audio recordings of witness interviews, photographs, 9-1-1 calls, radio traffic, and surveillance video submitted to this office by LASD Detectives Chris Bergo and Marc Boskovich. The voluntary statement of Deputy Chavez was also considered as part of this analysis.

FACTUAL ANALYSIS

Summary

On September 23, 2020, at approximately 4:00 p.m., Deputy Raymond Chavez was assigned as a uniformed deputy in the Whittier Courthouse. At the end of his shift, Chavez changed out of his uniform and into his civilian attire. He armed himself with a .357 magnum "backup" revolver that he carries in the back pocket of his shorts as he transits to and from work. Chavez walked to a parking structure across the street from the courthouse to get into his car and drive home. The parking structure is designated for court staff, jurors, and the public. The parking structure is also known to court staff and law enforcement as being a high crime area.

[1] Chavez [redacted]

When Chavez entered the parking structure, he saw two men looking into vehicles. Chavez believed the men were "casing" vehicles to burglarize. One of the men, Nelson, peered into Chavez's automobile. Chavez yelled, "What are you doing to my car?" Nelson responded that he "dropped something." Chavez asked Nelson what he dropped, and Nelson responded, "Don't fucking worry about it." Chavez attempted to use his cell phone to video Nelson, with the intention of providing the video to police.

Nelson appeared enraged that Chavez was taping him.

Nelson advanced aggressively toward Chavez, reached into his waistband, and appeared to be drawing a weapon. Chavez drew his backup gun, pointed it at Nelson, identified himself as a deputy sheriff, and ordered Nelson to show his hands. Nelson said, "I don't give a fuck" and continued to advance quickly toward Chavez, while tugging on his waistband. When Nelson was approximately three feet away, Chavez, in fear for his life, fired three rounds at Nelson, striking him in his ear and lower back and causing him serious injury.

Chavez called 9-1-1 and held Nelson at gunpoint as Nelson was on the ground and continuing to "fumble" with his waistband. Nelson told Chavez he was not reaching for a gun and was instead reaching for a knife. A folding construction style knife was located concealed and clipped to the front of Nelson's waistband. The knife is shown in the photograph below:



Figure 1- Nelson's Folding Knife.

The Scene

An exterior photo of the courthouse, parking lot, and entrance to parking lot where the shooting occurred is shown below:

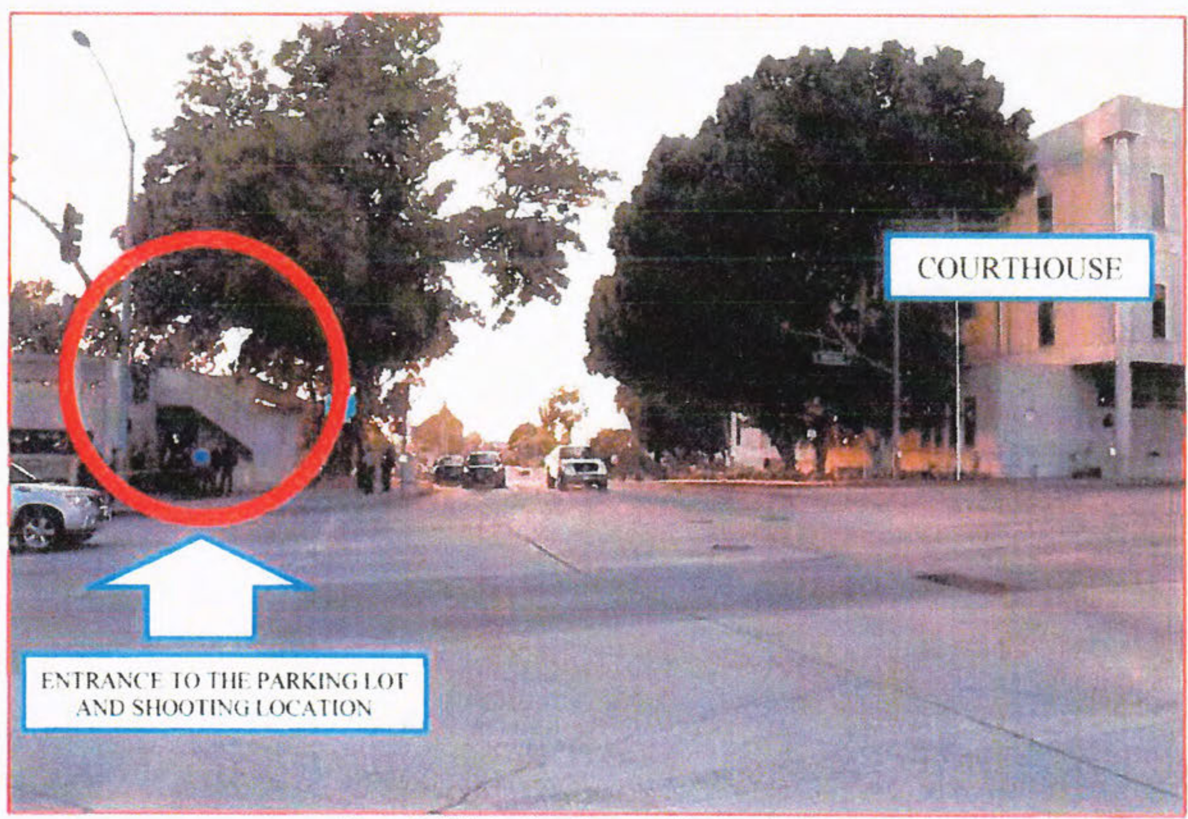


Figure 2- Whittier Courthouse and Parking Structure.

A photo of the location where Nelson fell after the shooting and depicting his property is shown below. His knife and smoking device are circled in red:

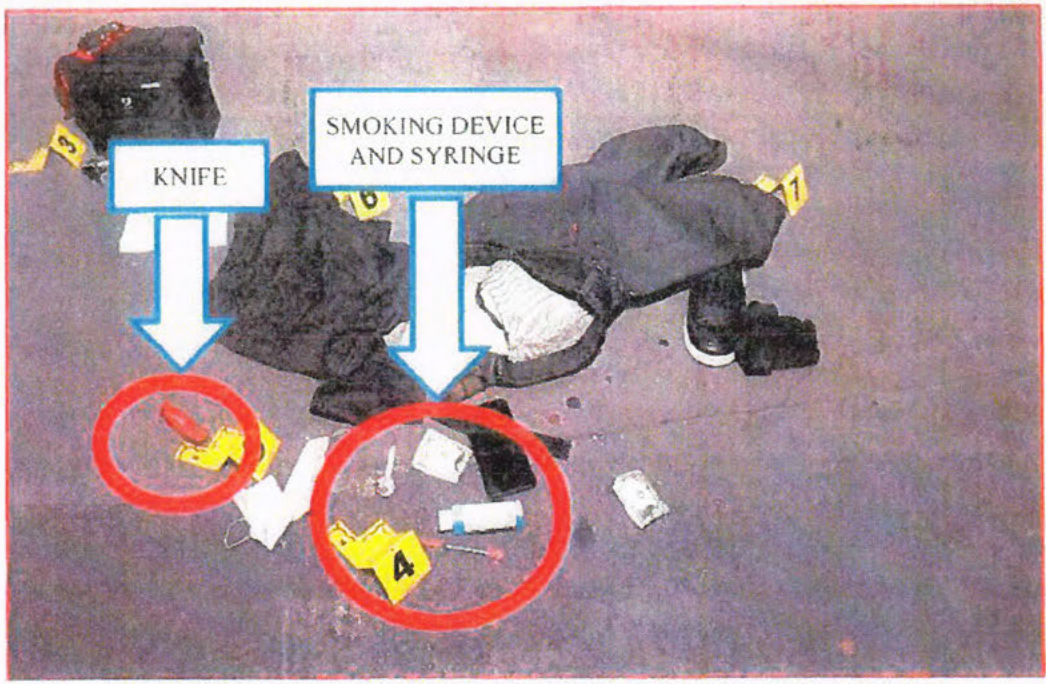


Figure 3- Photo of the location of where Nelson fell, his knife, syringe, pipe, and clothing.

Deputy Chavez' Statement

Chavez said he was assigned as a uniformed deputy at the Whittier Courthouse and ended his shift at approximately [redacted] He changed into his civilian attire, armed himself with his .357 magnum revolver backup gun, which he concealed in the rear pocket of his shorts. He walked to his car, which was parked in the parking structure across the street from the courthouse.

When Chavez entered the parking structure, he saw a man looking into a car. That man noticed Chavez, turned away, yawned loudly, raised a black sweatshirt over his head, appeared to be signaling someone, and walked from between two cars and toward the exit and out of view. The man's behavior was odd.

Chavez saw a second man, later identified as Nelson, looking into Chavez's car. Chavez asked Nelson what he was doing to his car, and Nelson responded that he dropped something. Chavez asked him what he dropped. Nelson said, "Don't fucking worry about it." Chavez believed that Nelson planned to burglarize his vehicle. Chavez used his cell phone to video Nelson and provide the video to police. Although the camera feature on his cell phone opened and appeared to be recording, it did not record.

Nelson appeared enraged that Chavez was recording him and ordered Chavez to stop. Chavez followed Nelson to the exit door of the parking structure and continued his attempt to video Nelson. Nelson turned toward him and suddenly and aggressively advanced toward him, with his hand under his jacket near his waistband. Chavez believed Nelson was reaching for a weapon in his waistband and the situation was "headed south." Chavez considered running away but decided against that because he had an injured leg and back and would not be able to outrun Nelson. Running away would also allow Nelson the opportunity to draw his weapon and kill him.

Chavez said he identified himself verbally as a deputy sheriff, drew his backup gun, and ordered Nelson to show his hands. Nelson disregarded that order, continued to advance aggressively toward Chavez, and said, "I don't give a fuck." Nelson was tugging at his waistband in apparent attempt to draw a weapon.

When Nelson was two to three feet away, and fearing for his life, Chavez fired two rounds at Nelson, who bent at the waist and turned to his left while still "fumbling" and tugging at his waistband. In continued fear for his life, Chavez fired a third round at Nelson, who fell to his stomach and continued to fumble with his waistband.

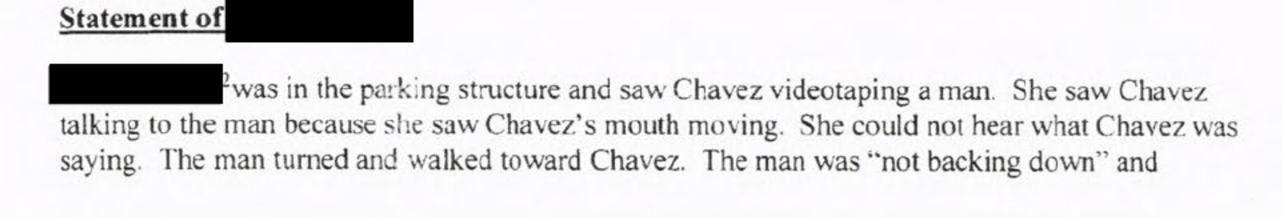
Nelson announced to Chavez that he was not reaching for a gun and was instead reaching for a knife. Chavez held Nelson at gunpoint, called 9-1-1, and an off-duty detective arrived to render medical assistance and assist Chavez in detaining Nelson. That detective searched Nelson and located a Milwaukee box cutter/knife clipped to his belt in the front of his waistband

Samuel Nelson's Statement

Investigators interviewed Nelson at the hospital. Nelson said he was homeless and said he dropped twenty dollars near a parked car in the parking structure (no currency was found in that area). He was looking for the money when Chavez confronted him and started taping him. Chavez asked him what he was doing around the car and Nelson said, "What is it to you?" He also told Chavez, "Get the fuck out of my way. If these cars aren't yours, you have nothing to worry about." Nelson told Chavez it was an invasion of privacy to record him and walked away. Chavez continued to record him as he walked away.

Nelson then stopped, turned toward Chavez, ordered him to stop recording, threw down his cigarette, walked toward Chavez, and said, "Put your fucking camera down, homes. Put the camera down fool. You're invading my privacy." Nelson said he walked toward the man and placed his hand under his shirt. Nelson admitted he had a pocketknife clipped to his waistband. He said he reached toward his waistband to pull up his shirt and show Chavez the knife for the purpose of intimidating him and stopping him from recording and "fucking with him." Chavez walked toward him, and Nelson thought it was going to be "mutual combat." Nelson said he was approximately five feet away from Chavez when Nelson reached toward his waistband. When he was about one foot away and displaying a knife, Chavez pulled out a gun and pointed it at him. Nelson said, "Go ahead fool. Blast me." Chavez fired at him and bullets hit his ear and lower back. Nelson admitted he had used methamphetamine earlier on the day of the incident. He denied burglarizing automobiles.

Nelson did not state to investigators that Chavez identified himself as a police officer.



Statement of

[2] was in the parking structure and saw Chavez videotaping a man. She saw Chavez talking to the man because she saw Chavez's mouth moving. She could not hear what Chavez was saying. The man turned and walked toward Chavez. The man was "not backing down" and

[2] is an of the Los Angeles Superior Court. She is not an of Los Angeles County.

approached Chavez in a "menacing" way. As the man got close to Chavez, she saw and heard Chavez fire three times. The man was still approaching Chavez as he fired.

Video and Cell Phone Evidence

There are no surveillance cameras inside the parking structure and the shooting itself is not captured on video. There is exterior surveillance footage that shows Chavez entering the parking structure and, approximately 90 seconds later, an off-duty Whittier Police detective arrived to assist Chavez.

A forensic examination of Chavez's cell phone showed that he powered on his cell phone camera during the relevant time frame, but the camera did not record.

9-1-1 Call

Chavez called 9-1-1 and reported that he shot someone and needed help. While on the phone with the 9-1-1 operator, an off-duty Whittier Police detective arrived to assist, and the call ended.

Nelson's Injuries

Nelson sustained two gunshot wounds. He suffered a graze wound to the ear and a gunshot wound to the back that caused a spinal cord injury and paralysis.[3]

LEGAL ANALYSIS

The Law

California law permits the use of deadly force in self-defense or in the defense of others if the person claiming the right of self-defense or the defense of others actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code section 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also,* CALCRIM No. 505.

A peace officer is justified in using deadly force upon another person when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons: (1) to defend against an imminent threat of death or serious bodily injury to the officer or to another person; or (2) to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Penal Code section 835a(c)(1)(A) and (B).

A threat of death or serious bodily injury is imminent when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the

[3] There are no photographs of Nelson's injuries. It is unclear from the evidence how Nelson was shot in the lower back. Per Chavez, Nelson and Chavez were face-to-face then Nelson rotated after the first gunshot. It appears that the first shot was from the front and the rapid sequence of gunshots, Nelson rotated and was struck in the back with the second or third shot. Also, the medical evidence is unclear as to the direction of the ear injury. It is referred to in the medical records as a "clip injury" but no path or direction of the projectile injury is provided.

present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is on that, from appearances, must be instantly confronted and addressed. Penal Code section 835a(e)(2).

When considering the totality of the circumstances, all facts known to or perceived by the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force is taken into consideration. Penal Code section 835a(a)(4) and (e)(3). The peace officer's decision to use force is not evaluated with the benefit of hindsight and shall account for occasions when officers may be forced to make quick judgments about using force. Penal Code section 835a(a)(4).

In evaluating whether a police officer's use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight… The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

Analysis

The evidence presented shows that Nelson may have been in the process of burglarizing automobiles in the courthouse parking structure when confronted by Chavez. Nelson was armed with a knife clipped to his belt at the front of his waistline and concealed under his shirt. Chavez was alone and armed with a backup gun in his pocket. He confronted Nelson and attempted to videotape him to provide evidence to the police. Nelson, who had the presence of amphetamine and cannabis in his bloodstream, became enraged, demanded that Chavez stop taping him, and stepped toward Chavez while tugging at his waistband. It appeared to Chavez that Nelson was drawing a weapon. Nelson admitted that he lifted his shirt and showed a knife with the intent to stop Chavez from taping him and expected that he would engage in "mutual combat" with Chavez. Chavez said he identified himself as a deputy sheriff and ordered Nelson to show his hands. Nelson ignored Chavez's command and continued to advance toward Chavez, and while quickly reaching into his waistband. The engagement occurred in an open area of the parking structure and there was no opportunity for Chavez to take cover behind a car or structure or otherwise conceal himself. Due to a leg and back injury, Chavez was unable to run away and, even if he did so, that may have increased the risk of exposing his back to Nelson and being shot or stabbed. Nelson, by his own admission, was in the process of attempting to scare Chavez and possibly engage in mutual combat. In a rapidly unfolding situation, which developed in fewer than 90 seconds, Nelson advanced to within two to three feet of Chavez, while brandishing a knife. In fear for his life, Chavez fired his off-duty weapon at Nelson Chavez' decision to use deadly force to stop the deadly threat Nelson presented was reasonable and necessary under the circumstances.

CONCLUSION

It is our conclusion there is insufficient evidence to prove beyond a reasonable doubt that Deputy Chavez was not acting in lawful self-defense.

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

SUPPLEMENTAL REPORT

DATE: 09/24/20 FILE: 020-00088-3199-058 ACTION: Active/Additional

C: Assault with a Deadly weapon 245(c) PC/F/058

S: Samuel Nelson MH 01/14/97

NARRATIVE

The purpose of this supplemental report is to provide active/additional information regarding our involvement in the report written under the above mentioned file number.

We responded to 7621 Painter Avenue, Whittier CA 90602 regarding a Deputy involved shooting. Upon are arrival we contacted Lieutenant Terrence Bell (emp [redacted]) who directed us to respond to Los Angeles Medical Center USC (2051 Marengo Street, Los Angeles CA 90033) regarding the suspect in the assault with a deadly weapon.

Upon our arrival we contacted Officers [redacted] and [redacted] from Whittier Police Department. Officers [redacted] and [redacted] were in the emergency room and directed us to the location of the suspect.

My partner (Deputy Sanchez Emp.[redacted]) and I relieved the officers from Whittier Police Department.

The suspect was treated by emergency room physician Hurley under medical record number [redacted]. The suspect was treated for a gun shot wound.

While the suspect was being medically treated, he appeared to be disoriented, unaware of where he was, and that he had been shot. The suspect was sedated while being medically treated and rarely spoke.

Once the initial treatment of the suspect was complete, the suspect was transfered to ICU [redacted]

Homicide bureau Sergent Bergo (emp. [redacted]) and Sergeant Berskovihc (emp. [redacted]) arrived to our location and relieved us of our post.

The suspect was not handcuffed at any point during his medical treatment.

This concludes our involvement in the above mentioned file number.

LARCIS
10/14/20

		DATE:	TIME:
BY:	S.Phaneuf Emp. [redacted]	09/24/20	0320 Hours
APPROVED:	SGT P. Baltazar [redacted]	9-24-20	2340
ASSIGNED:	Homicide		
SECRETARY:			